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Attorneys for Defendants, City of Huntington Park,
 Rene Reza, April Wheeler, Matthew Rincon, Nick
 Nichols, Jose A. Yamasaki, and Saul Rodriguez

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

WILLIAM OMAR CASTILLO	) Case No. 2:23-cv-09412 CBM (AGRx)
MIRANDA, an individual and as)
Successor in Interest for Decedent,)
WILLIAM RENE SALGADO	) <i>Assigned to:</i>
MIRANDA; JUANA MARIA	) <i>District Judge: Consuelo B. Marshall</i>
MIRANDA, an individual and as	) <i>Magistrate Judge: Alicia G. Rosenberg</i>
Successor in Interest for Decedent,)
WILLIAM RENE SALGADO)
MIRANDA; O.C.E. a minor by and	) DEFENDANTS CITY OF
through their Guardian ad Litem,	) HUNTINGTON PARK, RENE REZA,
EUGENIA GUADELUPE ESPINOZA	) APRIL WHEELER, MATTHEW
SALMERON; EUGENIA	) RINCON, NICK NICHOLS, JOSE A.
GUADELUPE	) YAMASAKI, AND SAUL
ESPINOZA SALMERON, an individual;	) RODRIGUEZ'S ANSWER TO
OSMAR ANTONIO CASTILLO	) PLAINTIFFS' FIRST AMENDED
BLANDON, an individual; KARLA	) COMPLAINT FOR DAMAGES
VANESSA BLANDON, an individual,)
Plaintiffs,)
v.	) DEMAND FOR JURY TRIAL AND
CITY OF HUNTINGTON PARK;	) REPORTER
RENE REZA, an individual; APRIL)
WHEELER, an individual; MATTHEW)
RINCON, an individual; NICK	) Complaint Filed November 7, 2023
NICHOLS, an individual; JOSE A.)
YAMASAKI, an individual; SAUL)
RODRIGUEZ, an individual; and DOES)
1 TO 10, inclusive, DOES 1-10,)
inclusive,)
Defendants.)

1 This answer is filed on behalf of the following named defendant only, and on
2 behalf of no other party: CITY OF HUNTINGTON PARK, RENE REZA, APRIL
3 WHEELER, MATTHEW RINCON, NICK NICHOLS, JOSE A. YAMASAKI,
4 SAUL RODRIGUEZ.

5 COME NOW DEFENDANTS, CITY OF HUNTINGTON PARK, RENE
6 REZA, APRIL WHEELER, MATTHEW RINCON, NICK NICHOLS, JOSE A.
7 YAMASAKI, SAUL RODRIGUEZ, in answer to the First Amended First Amended
8 Complaint on file herein, and admit, deny and allege, as follows:

9 1. Answering paragraph 12 of the First Amended Complaint,
10 DEFENDANTS admit the allegation contained therein.

11 2. DEFENDANTS lack information and belief sufficient to enable it to
12 answer, and basing its denial on those grounds, denies generally and specifically each
13 and every allegation contained in the First Amended First Amended Complaint in
14 paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, 39,
15 40, 41, 42, 43, 51, 52, 61, 62.

16 3. DEFENDANTS deny generally and specifically each and every
17 allegation contained in the First Amended First Amended Complaint in paragraphs 4,
18 14, 16, 17, 18, 19, 20, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44,
19 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62.

20 4. Answering paragraph 21 of the First Amended First Amended
21 Complaint, repeating and realleging each allegation contained in paragraphs 1 through
22 20 of the First Amended First Amended Complaint, DEFENDANTS incorporate by
23 reference the admissions, denials, and allegations regarding said paragraphs contained
24 therein.

25 5. Answering paragraph 38 of the First Amended First Amended
26 Complaint, repeating and realleging each allegation contained in paragraphs 1 through
27 37 of the First Amended Complaint, DEFENDANTS incorporate by reference the
28 admissions, denials, and allegations regarding said paragraphs contained therein.

1 6. Answering paragraph 57 of the First Amended Complaint, repeating and
2 realleging each allegation contained in paragraphs 1 through 56 of the First Amended
3 Complaint, DEFENDANTS incorporate by reference the admissions, denials, and
4 allegations regarding said paragraphs contained therein.

5 **FIRST AFFIRMATIVE DEFENSE**

6 7. Each purported cause of action fails to state facts sufficient to constitute
7 a cause of action against DEFENDANTS.

8 **SECOND AFFIRMATIVE DEFENSE**

9 8. Plaintiffs are barred from recovery by reason of the fact that any loss,
10 injury or damages alleged in the First Amended Complaint were occasioned by a risk
11 which decedent William Rene Salgado Miranda (“DECEDENT”) herein knowingly,
12 voluntarily, and expressly assumed.

13 **THIRD AFFIRMATIVE DEFENSE**

14 9. DEFENDANTS are informed and believe and based therein allege that
15 at the times and places material to the First Amended Complaint, DEFENDANTS
16 acted in good faith and without malice, in accordance with good practice and the
17 apparent authority of the statutory and decisional law of the State of California;
18 further, that the conduct, misconduct, and/or negligence of DECEDENT caused and
19 contributed to the loss, injury, and damages alleged in the First Amended Complaint,
20 and that by reason thereof, Plaintiffs should be barred from recovery herein, or in the
21 alternative, should have any such recovery diminished by the amount or percentage
22 that DECEDENT’S own conduct, misconduct and/or negligence caused or
23 contributed to the damages sustained, if any.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 10. DEFENDANTS at all times alleged in the First Amended Complaint,
26 acted in good faith, without malice, and within the scope of the duties of police officers
27 of the defendant public entity, and as peace officers within the State of California, and
28 in accordance with the Constitutions of the United States and the State of California,

1 and the laws of the United States and the State of California.

2 **FIFTH AFFIRMATIVE DEFENSE**

3 11. Plaintiffs' claims under the Federal Civil Rights Act against
4 DEFENDANTS are barred because the alleged violation of civil rights did not occur
5 pursuant to a governmental policy, custom, policy or practice.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 12. Each and every action or omission alleged in the First Amended
8 Complaint, if undertaken by DEFENDANTS were undertaken in the legitimate
9 exercise of the police power as part of the enforcement of ordinances, laws, statutes,
10 and regulations intended to protect the public health, safety and welfare. Moreover,
11 such activity which is alleged to have occurred was undertaken with a reasonable,
12 good faith belief that such activity was necessary, lawful and proper.

13 **SEVENTH AFFIRMATIVE DEFENSE**

14 13. To the extent that any force was used in detaining DECEDENT, it was
15 privileged as necessary to overcome resistance and/or in the exercise of the right of
16 self-defense.

17 **EIGHTH AFFIRMATIVE DEFENSE**

18 14. Plaintiffs' federal claims are barred because the individual defendants are
19 immune under the doctrine of qualified immunity.

20 **NINTH AFFIRMATIVE DEFENSE**

21 15. Plaintiffs' claims under the Federal Civil Rights Act are barred because
22 the First Amended Complaint fails to allege facts that go beyond mere tortious conduct
23 and rise to the dignity of a civil rights violation.

24 **TENTH AFFIRMATIVE DEFENSE**

25 16. Plaintiffs' claims under the Federal Civil Rights Act are barred because
26 there is no doctrine of *respondeat superior* under 42 U.S.C., § 1983.

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ELEVENTH AFFIRMATIVE DEFENSE

17. DEFENDANTS are immune from liability under the Federal Civil Rights Act because their conduct did not violate clearly established rights.

TWELFTH AFFIRMATIVE DEFENSE

18. Plaintiffs' claims under the Federal Civil Rights Act are barred because the alleged deprivation of civil rights was not without due process of law.

THIRTEENTH AFFIRMATIVE DEFENSE

19. Plaintiffs' claim for punitive damages is unconstitutional and invalid in that it violates the United States Constitution, including but not limited to, the Due Process Clause, and the Fifth, Sixth and Eighth Amendments.

FOURTEENTH AFFIRMATIVE DEFENSE

20. Plaintiffs are barred from seeking punitive damages against the City of Huntington Park.

FIFTEENTH AFFIRMATIVE DEFENSE

21. The actions of DEFENDANTS in all respects were reasonable, proper, and legal.

SIXTEENTH AFFIRMATIVE DEFENSE

22. This action is barred by the applicable statute(s) of limitations.

SEVENTEENTH AFFIRMATIVE DEFENSE

23. Plaintiffs' First Amended Complaint is barred by the doctrine of unclean hands.

EIGHTEENTH AFFIRMATIVE DEFENSE

24. Pursuant to the provisions of Government Code section 815, a public entity is not liable for any injury, whether such injury arises out of an act or omission of the public entity or a public employee, or any other person, unless there is express statutory liability for the said act or omission, and even such statutory liability is subject to any statutory immunity of the public entity, and is further subject to any defenses that would be available to the public entity if it were a private person.

NINETEENTH AFFIRMATIVE DEFENSE

25. Pursuant to the provisions of Government Code section 815.2(b), a public entity is not liable for any injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.

TWENTIETH AFFIRMATIVE DEFENSE

26. Pursuant to the provisions of Government Code section 820.2, a public entity is not liable for any injury resulting from the act or omission of its employee where the act or omission was a result of the exercise of the discretion vested in that public employee, whether or not such discretion was abused.

TWENTY-FIRST AFFIRMATIVE DEFENSE

27. Pursuant to the provisions of Government Code sections 815.2 and 820.4, public entities and public employees are not liable for injuries resulting from the execution or enforcement of any law while exercising due care.

TWENTY-SECOND AFFIRMATIVE DEFENSE

28. Plaintiffs failed to mitigate damages.

TWENTY-THIRD AFFIRMATIVE DEFENSE

29. Each of Plaintiffs' claims are barred by the immunity provisions of Penal Code sections 834(a) and 835(a).

TWENTY-FOURTH AFFIRMATIVE DEFENSE

30. Plaintiffs' state law claims are barred against them as DEFENDANTS are entitled to immunity caused by a person resisting arrest pursuant to California Government Code section 845.8(3). *Sacramento County v. Superior Court*, 8 Cal.3d 479 (1972); *Hooper v. City of Chula Vista*, 212 Cal.App.3d 442 (1989); *Cabral v. County of Glenn*, 624 F.Supp.2d 1184 (E.D.Cal. 2009).

TWENTY-FIFTH AFFIRMATIVE DEFENSE

31. DEFENDANTS are not liable pursuant to the doctrine of assumption of risk.

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TWENTY-SIXTH AFFIRMATIVE DEFENSE

32. To the extent that Plaintiffs' decedent suffered any detriment, such detriment was caused or contributed to by Plaintiffs' decedent's negligence and damage, if any, should be reduced in direct proportion to his fault.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

33. Pursuant to the provisions of Penal Code section 833.5, a police officer may detain an individual related to possession of a deadly weapon if reasonable cause exists that a person has a deadly weapon in his/her possession.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

34. Plaintiffs are barred from recovery by reason of lack of standing to bring the instant action.

TWENTY-NINTH AFFIRMATIVE DEFENSE

35. Plaintiffs are barred from recovery against the individual Defendants for failure to establish that the conduct of the individual Defendants was reckless and/or callous to the rights of Plaintiffs' decedent or others similarly situated at the time of confinement.

THIRTIETH AFFIRMATIVE DEFENSE

36. The herein answering DEFENDANTS did not interfere with Plaintiffs' decedent's constitutional rights by threats, intimidation, or coercion.

THIRTY-FIRST AFFIRMATIVE DEFENSE

37. Plaintiffs are barred from recovery because DEFENDANTS' alleged conduct was neither discriminatory nor done with deliberate indifference.

THIRTY-SECOND AFFIRMATIVE DEFENSE

38. Pursuant to the provisions of Government Code sections 815.2 and 820.4, public entities and public employees are not liable for injuries resulting from the execution or enforcement of any law while exercising due care.

THIRTY-THIRD AFFIRMATIVE DEFENSE

39. Plaintiffs' recovery is barred or reduced proportionately by the careless

1 negligence, wrongful, reckless and/or willful conduct of DECEDENT, which
2 proximately caused any damage claimed in this action pursuant to California Civil
3 Code § 1431.2. *Weidenfeller v. Star & Garter*, 1 Cal.App.4th 1 (1991) *Martin v.*
4 *United States*, 984 F.2d 1033 (9th Cir. 1993).

5 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

6 40. Each purported cause of action in the First Amended Complaint which
7 seeks money or damages is barred because Plaintiffs failed to present any such claims
8 in a timely manner in accordance with the requirements of the California Tort Claims
9 Act, Government Code sections 900 et seq., prior to filing this lawsuit against
10 DEFENDANT. The Government claim fails to state facts sufficient to constitute a
11 cause of action.

12 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

13 41. Plaintiffs failed to comply with the claims presentation and/or filing
14 requirements of Government Code sections 905 et seq.

15 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

16 42. The claim which Plaintiffs presented to Defendants, if any, were
17 insufficient pursuant to Government Code sections 910 et seq. The Government claim
18 fails to state facts sufficient to constitute a cause of action.

19 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

20 43. The facts contained in Plaintiffs' First Amended Complaint were not
21 adequately presented to DEFENDANTS in Plaintiffs' claim, if any. Therefore, this
22 action is barred.

23 WHEREFORE, DEFENDANTS pray that Plaintiffs take nothing by way of the
24 First Amended Complaint, that DEFENDANTS recover its costs of suit and an award
25 of its' attorney's fees as a prevailing party, pursuant to 42 U.S.C section 1988, and
26 such other and further relief as the Court may deem just and proper.

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DEMAND FOR JURY TRIAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that DEFENDANTS demand a trial by jury pursuant to Federal Rules of Civil Procedure, Rule 38(b) and Local Rule 38-1.

Dated: September 17, 2024

ALVAREZ-GLASMAN & COLVIN
ARNOLD M. ALVAREZ-GLASMAN
CITY ATTORNEY

/s/ Roger A. Colvin, Esquire

Roger A. Colvin

Christy M. Garcia

Attorneys for Defendants, City of Huntington
Park, Rene Reza, April Wheeler, Matthew
Rincon, Nick Nichols, Jose A. Yamasaki, and
Saul Rodriguez

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Central District of California – by using the CM/ECF system on September 17, 2024.

I hereby certify that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

Executed on September 17, 2024, at City of Industry, California.

/s/ *Liza Lu Slaughter*

Liza Lu Slaughter

4877-9913-7254, v. 1